

REMARKSClaims Rejections Under 35 U.S.C. §§ 102 and 103

Claims 1-7 and 11-13 were again rejected for the same reasons as set forth in the previous Office Action of February 21, 2003. Thus, claims 1-7 and 11 were rejected under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,059,648 to Kodama et al for the reasons set forth on pages 2 and 3 of the Action.

Claims 1-4 and 6-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 4,962,568 to Rudy et al in view of U.S. Patent No. 5,372,539 to Kunig et al or Great Britain Patent No. 2,129,278 to Meyn for the reasons set forth on pages 4-6 of the Action.

Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Rudy et al. as modified by Meyn or Kunig et al. as applied to claim 1, and further in view of Kodama et al. or U.S. Patent No. 5,314,374 to Koch et al. for the reasons set forth on page 6 of the Action.

Claims 11-13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,021,024 to Villemin et al in view of Meyn for the reasons set forth on pages 6 and 7 of the Action.

Claims 12 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kodama et al and further in view of Villemin et al for the reasons set forth on pages 7 and 8 of the Action.

For the reasons set forth hereafter, it is submitted that claims 1-7 and 11-13, as amended, are patentable.

#### Patentability of the Claims

The present invention is directed to removing fillets from eviscerated carcasses of poultry whose extremities have all been totally detached therefrom by using a scraping device that includes a disc-like scraping element. Applicants' invention further includes a measuring device for measuring the individual dimensions of the poultry carcass for finding a starting position for loosening the fillets from the carcass. The measuring device includes a first element for detecting a first body joint point, a second element for detecting a second body joint point, wherein the first element and the second element are offset in the transport direction of the carcass, and a third element which is mounted behind the first and second elements which consists of two elements for detecting the first and second body joint points, respectively.

Applicants are claiming both a device for removing fillets from poultry carcasses whose extremities have all been totally detached as well as a method therefor.

By this amendment, independent claims 1 and 11 have been amended to further clarify that the device used in connection with eviscerated carcasses of poultry whose extremities have all been totally detached therefrom and to further define the measuring devices as including first and second and third elements.

With respect to all the cited references, Applicants hereby incorporate herein by reference the discussions of these same references set forth in the previous amendment filed July 21, 2003.

With respect to the Examiner's interpretation of the references in the present Office Action, it is respectfully submitted that the Examiner has not correctly understood and/or interpreted the cited references for the reasons set forth hereafter.

Thus, with respect to the "RESPONSE TO ARGUMENTS" set forth on pages 9-11 of the Action, Applicants' comment as follows:

**U.S. 6,059,648 of Kodama et al.**

Independent claims 1 and 11 have been amended by incorporating further features, as discussed below, so that it is now evident from what the extremities are detached.

- 1) With respect to the present invention, the carcass is free of all extremities, i.e. the extremities are totally detached from the carcass. In contrast thereto, in the invention according to Kodama et al. the extremities are still partly attached to the carcass.

For the invention according to Kodama et al. it is important and necessary that the extremities are still partly attached to the carcass, since the fillets are separated from the body with the help of the extremities, in particular the wings.

2) Furthermore, the measuring of the carcass in Applicants' invention has been clarified by incorporating further features into the claims. Measuring of the carcass according to the present invention is performed in order to find the body joint points which represent the starting point for removing the fillets. This measurement takes place from the outside, i.e. the first, second and third elements contact the carcass from the outside. Furthermore, the measurement of the starting points is performed three-dimensionally as follows:

- a) With the first element, the first body point joint is detected in two dimensions, namely the length and the height of the body point joint with respect to the middle axis of the saddle 9 and to the transport plane.
- b) With the second element, the same detections are performed for the second body joint point.
- c) With the third element, the third dimension of each body joint point is detected, namely the width.

Quite in contrast thereto, the measurement of Kodama et al. serves to find the wing sinews (which are no longer attached to the carcass in the present invention). It is necessary that the position of the sinews is determined so that the sinews can be cut (through) in order to partially separate/remove the wings. The

measurement takes place from the inside, i.e. the measuring element grips between the shoulder joints and measures the distance of the same. The measurement according to Kodama et al. is performed only two-dimensionally.

- 3) With respect to rotary cutter 71, the Examiner's statement in the Action is believed to be in error, as the rotary cutter 71 serves to open the diaphragm which lies on and encloses the tender piece. This is necessary in order to reach the tender piece. The outer fillet, however, has already been separated/removed from the carcass with the help of the wings.

Thus, Applicants do not believe that the rotary cutter 71 is at all provided for removing meat from the surface of carcasses.

**US 4,962,568 of Rudy et al.**

It is not believed that this reference has anything at all to do with the present invention, since the device according to Rudy et al. treats/deals with already separated fillets.

The device according to Rudy et al, which was stated by the Examiner as being a scraping device, is not a scraping device, but a device for separating two longitudinal pieces of a food product. For this purpose, an elongated flexible ribbon of synthetic thermoplastic resin or other suitable material is connected to one end of a water jet orifice for

transverse movement therewith. The flexible ribbon allows the water jet orifice to be moved laterally across the conveyor belt to effect the longitudinal cut through the food product.

US 5,372,539 of Kunig et al.

The rollers of the device according to Kunig et al. cannot and do not scrape the carcass, but only serve to remove the already detached fillets.

US 5,021,024 of Villemin et al.

It is submitted that the claims have been sufficiently amended to distinguish over Villemin et al. by incorporating further features into the claims.

In view of the foregoing amendments and remarks, Applicants contend that this application is in condition for allowance. Accordingly, reconsideration and reexamination are respectfully requested.

Respectfully submitted,

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